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Mailing Date: March 23, 2010

DECISION FOR REJECTION

Patent Application No.: 2006-504338

Drafting Date: March 15, 2010

Patent Office Examiner: Kenichi Yamaguchi

Title of the Invention: Osmomy Appliance

Applicant: Coloplast A/S

Attorney for Patent Applicant: Atsushi Aoki (and 4 others)

It is deemed that this application should be rejected for the reason of the Office Action dated October 14, 2009.

The content of the filed argument and amendment were examined, but no ground sufficient to overcome the reason for rejection could be found.

Note:

The applicant asserted in the argument that the invention according to claim 1 has inventive step by stating that "due to the constituent features F and G of the invention recited in claim 1, "a part (corresponding to "a first part" before amendment) of the edge of the opening formed in the rear wall of the bag is permanently secured to the surface of the adhesive wafer in a corresponding said part of the attachment zone, and the remaining part (corresponding to "a second part" before amendment) of the edge of the opening formed in the rear wall of the bag is adapted to be changed from a first position wherein it is not adhesively sealed to the remaining part of the attachment zone to a second position wherein it is adhesively sealed to the remaining part of the attachment zone". However, the specific structure to realize "the remaining part of the edge of the opening formed in the

rear wall of the bag is changed from a first position wherein it is not adhesively sealed to the remaining part of the attachment zone to a second position wherein it is adhesively sealed to the remaining part of the attachment zone" is not described. (The terms "opening" and "edge" thereof are unclear, and it is unclear as to whether or not the structures defined only in constituent features F and G result in the "change...to the second position". Therefore, with what structure and how the "change from a first position...to a second position" can be performed cannot be understood.) Therefore, the above assertion of the applicant is not based on the invention described in claim, and thus cannot be accepted. (Note that Fig. 1 of Japanese Unexamined Patent Publication No. 2001-231802 illustrates that a notch divides the flat ring into two parts for the change from a first position to a second position, in an ostomy device.)

(Regarding Reason 2)

The applicant asserted in the argument that the objection pointed out in Remarks (4) described in Notice of Reasons for Rejection has been overcome, because "stiffening element" is specified in claim 5 based on the structure described in paragraphs 0031 and 0033 of the specification. Even if the objection directed to the unclear description of claim 5 is overcome, the amendment of claim 4 was made to clarify "second part of the edge of the bag" which was described before the amendment and the "stiffening element" in the claim is still not specified therefore, the applicant's assertion cannot be accepted. (Note that it is not deemed that the remaining objections

have been overcome. For example, the structure of "in said rear wall" and "in the wafer" is unclear, and thus what is referred to by "the opening" "formed in the rear wall", etc., is not clear.

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If this decision is not satisfactory, an appeal trial can be demanded with Director General of the Patent Office within 30 days (where the applicant is a resident abroad, 90 days) from the delivery date of this decision (Article 121, Paragraph 1 of the Patent Law).

(Teaching Based on Article 46, Paragraph 2 of the Administrative Case Litigation Law)

With regard to this decision, an action for cancellation can be instituted only against a trial decision as a result of a demand for a appeal trial against this decision (Article 178, Paragraph 6 of the Patent Law).